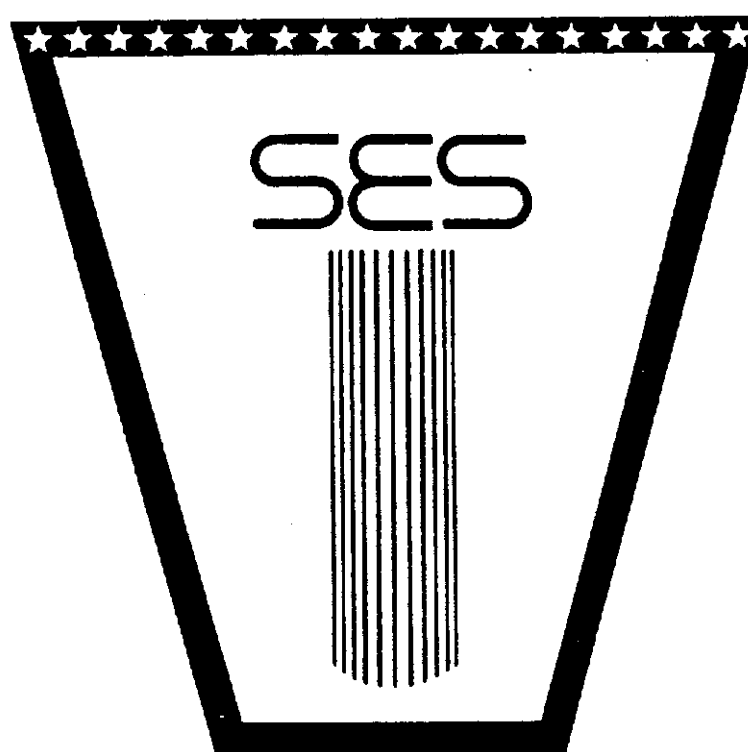




OFFICE OF THE SECRETARY OF DEFENSE

SENIOR EXECUTIVE SERVICE

Executive Pay-Setting



Office of the Secretary of Defense, DoD Field Activities,
the Joint Staff, the U.S. Court Military Appeals,
the U.S. Mission to NATO, and the Defense Agencies

DECEMBER 1988

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FOREWORD

The Senior Executive Service Handbook is issued under the authority of DoD Directive 1402.3, "Administration of the Senior Executives Service Program in the Office of the Secretary of Defense and the Defense Agencies," August 16, 1984.

This is a reissuance of Chapter 3 which provides information to Senior Executive Service (SES) members and their supervisors concerning the SES pay structure, the statutory and regulatory requirements, and the Office of the Secretary of Defense's policy on setting and adjusting SES pay levels. Chapter 3 now permits pay level adjustments within the succeeding twelve months after a transfer, provided the transfer did not include a pay level adjustment, and it also liberalizes the guidance for setting pay upon initial appointment to the SES. Additional changes mainly involve streamlining content and organization.

The provisions of this chapter apply to the Office of the Secretary of Defense (OSD), DoD Field Activities, the Joint Staff, the Defense Agencies (except the National Security Agency/Central Security Service and the Defense Intelligence Agency), the Strategic Defense Initiative Organization (SDIO), the U.S. Court of Military Appeals (USCOMA), and the U.S. Mission to the North Atlantic Treaty Organization (NATO).

This chapter is effective immediately and its use is mandatory.

Send recommended changes through channels to the following:

SES and Classification Division
Directorate for Personnel and Security
Washington Headquarters Services
Room 3C444, The Pentagon
Washington, D.C. 20301-1155

OSD Components may obtain copies of this chapter from the OSD Publications Counter, Room 3B960, The Pentagon. Other DoD Components should obtain copies of the chapter through their own publications channels. Other Federal Agencies and the public may obtain copies from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

D. O. COOKE
Director

REFERENCES

- (a) Title 5, United States Code, Section 5382
- (b)** Title 5, United States Code, Section 5305
- (c) **Title** 5, United States Code, Section 5383(c)
- (d) Title 5, Code of Federal Regulations, Section 534.401
- (e) Title 5, United States Code, Section 5383(d)
- (f) Title 5, United States Code, Section 5383(b)
- (g) **Title 5**, United States Code, Section 5541
- (h)** Title 5, United States Code, Section 5550(a)

CHAPTER 3
EXECUTIVE PAY SETTING

A. GENERAL

1. The instructions in this chapter apply to a variety of personnel actions and to all types of SES appointments (i.e., career, **noncareer**, limited term, and limited emergency).

2. The material in this chapter complements and should be **used in** conjunction with the material in Chapter 2, Executive Staffing; Chapter 4, Performance Planning and Evaluation; Chapter 6, Reassignment and Transfers; Chapter 7, **Reinstatement**; and Chapter 8, Probationary Period.

B. DEFINITIONS

1. Rate of Basic Pay. The rate of pay fixed **by law** or administrative action for each of the **SES** pay levels, ES-1 through ES-6.

2. Scheduled Rate. The rate of basic pay.

3. Payable Rate. That portion of the scheduled rate(s) which (under ~~conditions of a pay cap~~ **conditions of a pay cap**) may be paid to SES members. In the absence of a pay cap, the payable rates are identical to the scheduled rates.

4. Pay Cap. A limit imposed by the Congress on the maximum amounts that ~~may be paid~~ **may be paid** under the SES pay schedule.

5. Pay Adjustment. For purposes of this chapter, a change in the SES pay level ~~of an SES member~~ **of an SES member**.

6. Agency. Collectively, the Office of the Secretary of Defense (OSD), DoD Field **Activities**, the Joint Staff, the **U.S. Mission** to the North Atlantic Treaty Organization (NATO), the U.S. Court of Military Appeals (USCOMA), Defense Advanced Research Projects Agency (**DARPA**), Defense Security Assistance Agency (**DSAA**), the Defense Legal Services Agency (**DLSA**), and the Strategic Defense Initiative Organization (**SDIO**).

7. Defense Agencies

- a. Defense Communications Agency (**DCA**).
- b. Defense Contract Audit Agency (**DCAA**).
- c. Defense Investigative Service (**DIS**).
- d. Defense Logistics Agency (**DLA**).
- e. Defense Mapping Agency (**DMA**).
- f. Defense Nuclear Agency (**DNA**).

8. Employing Organization

- a. Each of the six Defense Agencies.
- b. OSO Components (includes **all** activities listed under "Agency") .

C. SES PAY STRUCTURE

1. There are six separate pay levels in the SES, designated as ES-1 through ES-6.

2. The rate of basic pay for each of these levels is **establi** shed by the President. 5 U.S. C. 5382 (reference (a)) provides that the **rate of** basic pay for ES-1 may not **be** lower than the rate for **GS-16**, step 1 of the General Schedule, and that the rate of **basic** pay for ES-6 may not **exceed** the rate for **Level** IV of the Executive Schedule.

3. The rates of basic pay are adjusted by the President. The SES is one of the statutory pay systems included in the President's annual report to the Congress on pay adjustments submitted under 5 U.S. C. 5305 (reference (b)).

4. When a pay cap has been imposed, there **wil** l be a difference between the **rate** of basic pay (scheduled rate) and the **capped** rate (payable rate) for one or more of the ES pay levels. The payable rate is used to compute bi-weekly pay, retirement deductions, retirement credit, **life** insurance coverage, **lump-sum** payment of accrued annual leave, and **severance** pay.

5. Information on changes in the scheduled or payable rates is promulgated by Office of Personnel Management (**OPM**) Bulletins **published** under the Federal Personnel Manual System.

D. DISTRIBUTION OF PAY LEVELS

1. There are no statutory restrictions on the number of executives that may be paid at each of the six pay levels. However, if pay **level** is to have an effect in attracting, retaining, and rewarding high-caliber executives, it is important that there be a meaningful **distribution**. For this reason, OPM has recommended a pattern" in which the greatest concentration is near the middle of the pay scale (ES-3 and 4), with significantly smaller proportions at ES-1 and 2, and ES-5 and 6, respectively.

2. The Office of the Secretary of Defense concurs in that general objective. **In** order to achieve such a distribution, agencies are urged to **bring** new appointees into the **SES** at pay levels ES-1 and ES-2 whenever appropriate, **and** exercise restraint in proposing adjustments to pay levels ES-5 and ES-6.

E. PAY SETTING - INITIAL APPOINTMENTS

1. General Factors. Under the Executive Assignment System (predecessor of the **SES**), the classification grade of the position was the principal determinant in setting the pay of the incumbent. Because the SES **is a** gradeless service, a number of factors related to the employee, the organizational structure, and the job market must **be** examined. Moreover, these factors must be considered within the context of the agency policy described in paragraph E.2, below.

a. Factors Personal to the Selectee

(1) The qualifications of the selectee.

(2) The selectee's expected impact on the position and the operation of the organization, as well as the accomplishment of the organization's goals and objectives.

(3) The current employment status and salary of the selectee.

b. Factors Related to the Organizational Structure

(1) The scope of responsibility of the position.

(2) The position's placement in the organization hierarchy.

c. Factors Reflecting Conditions in the External Job Market

(1) Problems in recruiting candidates who meet the requisite qualifications requirements.

(2) Income received in the non-Federal sector for **comparable** positions.

2. Agency Policy. The agency has adopted a set of guidelines on pay setting ~~with the dual~~ objective of providing for the equitable treatment of appointees and promoting internal consistency. Except to the extent that they reflect statutory or regulatory requirements, the guidelines are not absolute. In fact, since the individual guides are not uniformly consistent, some deviation may be unavoidable. The general guidelines are:

a. If the selectee is a current Federal employee, the **SES** pay level offered should be not less than the individual's current salary.

b. Pay increases of about 6% above current salary generally are appropriate. (When a pay cap has been imposed, the increase is computed on the basis of the scheduled rates.) Proposed increases above 6% must be justified in writing, as described in subparagraphs E.2.d. and 3a., below.

c. Whenever feasible, new appointees should be assigned to pay levels **ES-1** or **ES-2**.

d. Appointments at pay levels **ES-5** and **ES-6** should be the exception. They must be justified conclusively in the memorandum cited under subparagraph E.3.a., immediately below.

3. Procedures for Approval of Pay Level

a. ~~The~~ selecting official recommends an initial pay level. This **recommendation** is included in that official's memorandum on the selection. (See Chapter 2, Executive Staffing, for further details.)

b. Initial pay levels must be approved in advance of appointment by the Director of Administration and Management (DA&M), Office of the Secretary of Defense.

F. PAY SETTING - NONCOMPETITIVE ACTION

1. For the following noncompetitive actions, new pay level determinations are permitted in accordance with the guidelines in Section E, above, without regard to pay actions that may have occurred within the preceding 12 months:

a. Transfer (other than a transfer of function).

b. Reinstatement following a Presidential appointment when the individual did NOT elect to continue the SES pay provisions while serving under the Presidential appointment.

c. Reinstatement (not following a Presidential appointment) to an agency other than the one in which the individual was employed previously as an SES member.

d. Reinstatement to the agency from which the individual was employed previously as an SES member, PROVIDED there was a break in service of more than 30 calendar days.

2. The following noncompetitive actions are considered for purposes of pay setting as subject to Section G, below. Accordingly, if there was an initial appointment, transfer involving a change in pay level, or pay adjustment within the past 12 months, the individual's pay level may not be adjusted at the time the noncompetitive action is effected.

a. -Reassignment.

b. Transfer under a transfer of function.

c* Reinstatement following a Presidential appointment when the individual elected to continue the SES ~~pay~~ Provisions while **serving** under the Presidential appointment.

d. Reinstatement to the agency from which the individual was employed previously as an SES member, after a break in service of 30 days or **less**.

G. PAY-LEVEL ADJUSTMENTS

1. General Provisions

a. 5 **U.S.C.** 5383(c) (reference (c)) **provides** that the **ES pay level** assigned to **an** SES member may not be adjusted' (either up or down) **more** than once in any 12-month period. The initial **12-month** waiting period begins upon the date of appointment to the SES. A new 12-month waiting period is required at the time of a pay adjustment; transfer, if the individual's pay level actually was changed upon transfer; conversion; or upon reinstatement, when the new **pay** rate is different from the former rate or if the break in **SES** service exceeds 12 months.

b. Subject to the restrictions on the assignment of pay levels ES-5 and ES-6 discussed in subparagraph G.3.b., below, an executive's pay may be increased by one or more levels. However, an adjustment downward is restricted by 5 **CFR** 534.401 (reference (d)) to one SES pay level per adjustment.

c. Under 5 **U.S.C.** 5383(d) (reference (e)) an SES career appointee is entitled to a 15-day advance written notice of an adjustment downward in his or her pay level (see reference (d)). This requirement may not be waived.

d. A change in pay resulting from the implementation of a revision in the ES pay-rate schedule (by Presidential or Congressional action) does not constitute a pay adjustment for purposes of this section.

2. Agency Policy. The Office of the Secretary of Defense has adopted the **following guidelines** on making **pay adjustments**. These guidelines supplement the statutory and regulatory restrictions referred to in subparagraphs **G.1.a.**, **1b.** and **1.c.**, above.

a. The SES pay system does not parallel the grade/step structure of the General Schedule pay system. Accordingly, SES members have no entitlement to an adjustment in pay level. A member's pay level should not be adjusted simply because he or she has been paid at a particular level for a specified period of time.

b. Pay-level adjustments should be used as one means of rewarding excellence in performance, thereby helping the agency retain its **high-caliber** executives.

c. Pay adjustments should be considered in connection with the annual performance review, but are requested and processed separately.

d. Adjustments to pay levels ES-5 or ES-6 should be the exception. They must be justified conclusively in the memorandum required pursuant to subparagraph G.3.b, below.

3. Approval of Pay-Level Adjustments

a. Adjustments to pay ~~1~~ **levels** ES- 1 through ES-4 ~~shall~~ be recommended and approved by individual OSD Components and Defense Agencies in accordance with their delegations of authority, if applicable. Pay adjustment recommendations for OSD Components not covered by a delegation of authority shall be forwarded to the SES and Classification Division, Director for Personnel and Security, WHS, for processing to **DA&M** for approval.

b. All recommendations for adjustments to levels ES-5 and ES-6 by the Heads of OSD Components and Directors of the Defense Agencies shall be submitted to the **DA&M** for approval.

c. All recommendations for pay-level adjustments for Defense Agency General Counsels shall be coordinated and approved by the General Counsel, Department of Defense and the Director, **DLSA**.

H. SUBMISSION OF OPM FORM 1390, "EXECUTIVE PERSONNEL TRANSACTION"

A completed OPM Form 1390, showing the pay level adjustment and effective date, must be forwarded to the SES and Classification Division, Director for Personnel and Security, WHS, within five work days after the effective date of the action by those OSD Components and Defense Agencies who do not receive personnel servicing from WHS.

I. CEILING ON TOTAL COMPENSATION

As provided by 5 USC 5383(b) (reference (f)), the aggregate **amount** paid to an SES member during any fiscal year for SES pay, an SES performance award (commonly referred to as a bonus) and a Presidential **Rank** Award (Distinguished or Meritorious) may not exceed the annual **rate** payable at Level I of the Executive Schedule in effect at the end of such fiscal year. However, the amount in excess may be rolled over and paid to the executive in a lump sum at the beginning of the next fiscal year.

J. PREMIUM PAY EXCLUSION

In accordance with 5 **U.S.C.** 5541 (reference (g)), premium **pay** (i.e., overtime, compensatory time, Sunday or holiday pay and night, standby, irregular, and hazardous duty pay differential) is not authorized for members of the SES except as noted in Section K., below.

K. COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES

Under 5 **U.S.C.** 5550(a) (reference (h)), an employee whose personal religious beliefs require the absence from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who elects such overtime **work** shall be granted equal compensatory time off from his or her scheduled tour of duty for such religious reasons.